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EXAMINER

MCCLLOUD, RENATA D

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,310

Applicant(s)

ZIEGENHORN ET AL.

Examiner

Renata McCloud

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/26/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-35 is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the amendment filed 26 March 2003, paper number 6, the following has occurred:
 - (a) The specification, as well as claims 1 and 12, have been amended.
 - (b) The claim objections have withdrawn by the examiner due to the changes made by the applicant.
 - (c) The 35 USC § 112 rejections have been withdrawn by the examiner due to the changes made by the applicant.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
3. Claims 1, 2, 7, 9, 11, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Harter et al (U.S. Patent 5,934,182).

Harter et al teaches:

Claim 1: an apparatus for controlling the opening of a cover over a grilling surface (e.g. Col. 4:59-61) comprising a motor coupled to the cover (e.g. Fig. 1:35), the motor adjusting an angle between the cover and the grilling surface (e.g. Col. 4:33-58).

Claim 2: a counterweight attached to the rear of the cover (e.g. Fig. 1:22 being part of counter weight system).

Claims 7: the apparatus for opening a cover of a grilling surface is removable (e.g. Fig. 1:35 can be removed).

Claim 9: the motor stops movement of the cover at a point within a full range of the cover movement (e.g. Col: 5:55-6:21).

Claim 11: the grilling surface is a combustible gas fueled barbeque grill (e.g. Column 2:23).

Claim 21: a cooking apparatus comprising a grilling surface (e.g. Fig. 1:11), a cover that provides an adjustable opening over the grilling surface (e.g. Fig. 1:10), and a motor coupled to the cover to adjust the opening between the cover and the grilling surface (e.g. Fig. 1:35).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harter et al as applied to claims 1, and 21 above, in view of Mullet et al (U.S. Patent 6,326,754).

Claims 3 and 22: Harter et al teaches the limitations of claims 1 and 21. Referring to claims 3 and 22, Harter et al does not teach a remote control for transmitting control signals to the motor. Mullet et al teach a remote control for transmitting control signals to the motor (e.g. Fig. 2, #70).

Claim 4: Harter et al teaches the limitations of claim 1. Referring to claim 4, Harter et al does not teach the remote control transmits start and stop signals. Mullet et al teach the remote control transmits start and stop signals (e.g. Fig. 1, #16).

Claim 5: Harter et al teaches the limitations of claim 1. Referring to claim 5, Harter et al does not teach the motor only operates during the transmission of control signals to the motor. Mullet et al teach the motor only operates during the transmission of control signals to the motor (e.g. Column 4:30-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al, to include the door opening apparatus taught by Mullet et al. The advantage of this would be an apparatus that has a cover that is remote control operated, thus allowing a user to open the apparatus from a distance away from the apparatus.

Claim 23: Harter et al teaches a cover over a grilling surface with a motor. Harter et al does not teach a method of controlling the opening of a cover over a grilling

surface comprising causing a motor to operate upon receiving a first signal and causing the motor to stop operating upon receiving a second signal. Mullet et al teach a method of controlling the opening of a cover over a grilling surface comprising causing a motor to operate upon receiving a first signal and causing the motor to stop operating upon receiving a second signal (e.g. Column 7:44-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al to include method of controlling the opening of a cover over a grilling surface by using a motor to operate upon receiving a first signal and causing the motor to stop operating upon receiving a second signal as taught by Mullet et al. The advantage of this would be an apparatus that has a cover that is remote control operated, thus allowing a user to open the apparatus from a distance away from the apparatus.

Claim 24: Harter et al and Mullet et al teach the limitations of claim 23. Referring to claim 24, Mullet et al teach activating a first control generates the first signal (e.g. Column 7:44-48).

Claim 25 Harter et al and Mullet et al teach the limitations of claim 23. Referring to claim 25, Mullet et al teach releasing the first control generates a second signal (e.g. Column 7:44-48).

Claim 26: Harter et al and Mullet et al teach the limitations of claim 23. Referring to claim 26, Mullet et al teach activating a second control generates a second signal (e.g. Column 7:44-48).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harter et al as applied to claim 1 above, in view of Fitzgibbon et al (U.S. Patent 6,400,112).

Claim 8: Harter et al teaches the limitations of claims 1 and 21. Referring to claims 8 and 19 Harter et al does not teach a battery-powered motor. Fitzgibbon et al teach a door opening apparatus with a motor that is battery powered (e.g. Column 13:18-21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al to include a battery powered motor. The advantage of this would be a motor that is operable during any type of power outage and can be used without a power outlet nearby.

7. Claims 10, 12, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harter et al (U.S. Patent 5,341,727), in view of Valentino (U.S. Patent 5,850,828).

Claim 10: Harter et al teaches the apparatus of claim 1. Referring to claim 10, Harter et al does not teach a grilling surface that is a charcoal briquette fueled barbeque grill. Valentino teaches this (e.g. Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al to include a charcoal briquette fueled grilling surface. The advantage of this would be the ability to use the grill whenever gas is unavailable.

Claim 12: Harter et al teaches a cooking apparatus comprising a grilling surface (e.g. Fig. 1:11), a cover that provide adjustable opening over the grilling surface (e.g.

Fig. 1:10), and a motor coupled to the cover to adjust the opening between the cover and the grilling surface (e.g. Fig. 1:35). It is unclear if Harter et al teaches a cover that provides a hollow chamber. Valentino teaches a cover providing a hollow chamber (e.g. Fig. 1:60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al to include a hollow chamber cover as taught by Valentino. The advantage of this would have been a lid that is lightweight and easy to open.

Claim 17: Harter et al and Valentino teach the limitations of claim 12. Referring to claim 17, Harter et al teaches a counterweight attached to the rear of the cover (e.g. Fig. 2:22 being part of counter weight system).

Claim 20: Harter et al and Valentino teach the limitations of claim 12. Referring to claim 20, Harter et al teaches the motor stops movement of the cover at a point within a full range of the cover movement (e.g. Col: 5:55-6:21).

8. Claims 13-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harter et al and Valentino as applied to claim 12 above, in view of Mullet et al (U.S. Patent 6,326,754).

Claim 13: Harter et al and Valentino teach the limitations of claim 12. Referring to claim 13, they do not teach a remote control for transmitting control signals to the motor. Mullet et al teach a remote control for transmitting control signals to the motor (e.g. Fig. 2, #70).

Claim 14: Harter et al and Valentino teach the limitations of claims 12. Referring to claim 14, they do not teach the remote control transmits start and stop signals. Mullet et al teach the remote control transmits start and stop signals (e.g. Fig. 1, #16).

Claim 15: Harter et al and Valentino teach the limitations of claim 12. Referring to claim 15, they do not teach the motor only operates during the transmission of control signals to the motor. Mullet et al teach the motor only operates during the transmission of control signals to the motor (e.g. Column 4:30-35).

Claim 18: Harter et al and Valentino teach the limitations of claim 12. Referring to claim 18, they do not teach the apparatus is removable from the cover. Mullet et al teach the apparatus is removable from the cover (e.g. Column 4:21-25).

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harter et al and Valentino, as applied to claim 12 above, in view of Fitzgibbon et al (U.S. Patent 6,400,112).

Claim 19: Harter et al and Valentino teach the limitations of claim 12. Referring to claim 19 Harter et al and Valentino do not teach a battery-powered motor. Fitzgibbon et al teach a door opening apparatus with a motor that is battery powered (e.g. Column 13:18-21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al and Valentino to include a battery powered motor as taught by Fitzgibbon et al. The advantage of this

would be a motor that is operable during any type of power outage and can be used without a power outlet nearby.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harter et al and Mullet et al as applied to claim 4 above, in view of Whitaker et al (U.S. Patent 5,450,841).

Claim 6: Harter et al and Mullet et al teach the limitations of claim 4. Referring to claim 6, they do not teach a remote control transmitting signals to control flow of a combustible fuel. Whitaker et al teach a remote control transmitting signals to control flow of a combustible fuel (e.g. Fig. 1:35; Col. 3:20-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al and Mullet et al to make the remote transmit signals to control flow of a combustible fuel as taught by Whitaker et al. The advantage of this would be a user being able to control a flame from a distance and a reduced risk of being burned.

11. Claims 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harter et al, Valentino, and Mullet et al as applied to claim 13 above, in view of Whitaker et al (U.S. Patent 5,450,841).

Claim 16: Harter et al, Valentino, and Mullet et al teach the limitations of claim 13. Referring to claim 16, they do not teach a remote control transmitting signals to

control flow of a combustible fuel. Whitaker et al teach a remote control transmitting signals to control flow of a combustible fuel (e.g. Fig. 1:35; Col. 3:20-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Harter et al, Valentino, and Mullet et al to make the remote transmit signals to control flow of a combustible fuel as taught by Whitaker et al. The advantage of this would be a user being able to control a flame from a distance and a reduced risk of being burned.

Allowable Subject Matter

12. Claims 27-35 are allowed. The following is a statement of reasons for the indication of allowable subject matter:

Claim 27: The prior art made of record fails to teach a motor support beam having an adjustable length, the motor support beam having a motor attachment surface for attachment to the motor and at least on base attachment surface for attachment to a support base of the grilling surface.

Response to Arguments

13. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument of the objection to claims 27-35, the examiner notes that in the "Brief Description of Drawings", Fig. 6 was described as showing "an adjustable crossbar support arm". Also, in the "Detailed Description of the

Preferred Embodiment", reference number "600" was referred to as an "adjustable crossbar support arm". However, applicant had previously claimed a "support beam". Claim limitations must be shown in the drawings (see M.P.E.P. 608.02(d)).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are Mazzoli (FR 2614060 A1), Ito et al (JP 61147023), Bridgewater (U.S. Patent 4,962,750), Dickson (U.S. Patent 5,341,727), and Sann (U.S. Patent 5,968,574).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (703) 308-1763. The examiner can normally be reached on Mon.-Thurs and every other Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


ROBERT E. NAPPI
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 2800

Application/Control Number: 09/997,310

Page 12

Art Unit: 2837

Renata McCloud

Examiner

Art Unit 2837

RDM

May 30, 2003